

ZONING RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

JUN 21 2006

Shaded Area For Office Use Only

Case No. 117

Date Filed 6/15/06

Hearing Date _____

Pre-Conf. _____

Receipt _____

Fee \$1440.00

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name Stepney Road Holding Limited Partners Phone Number (call attorney)

Address c/o James F. Knott Development 1 Texas Station Ct, Ste. 200 Timonium,
Street Number Street MD 21093 State Zip Code

Property Owner (same as above) Phone Number _____

Address _____
Street Number Street State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street State Zip Code

Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410 893 7500

Gessner, Snee, Mahoney & Lutche, P.A.

Address 11 S. Main Street, P.O. Box 1776, Bel Air, MD 21014
Street Number Street State Zip Code

Land Description

Address and Location of Property (with nearest intersecting road) 612 S. Stepney Road
Aberdeen, MD 21001

Subdivision --- Lot Number --- Acreage/Lot Size 300.64 Election District 02

Existing Zoning R2/GI/CI Proposed Zoning R2/R3 Acreage to be Rezoned 83.72

Tax Map No. 58 Grid No. 2C Parcel 59 Deed Reference 1567/557
1448/101

Critical Area Designation None Land Use Plan Designation Medium Intensity

Present Use and ALL improvements: R-2 Portion Beechtree Golf Course GI/CI vacant

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) ---

Mixed Townhouse/Condominium Project

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

None If yes, describe: ---

Estimated Time Requested to Present Case: 2 hours

Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

ATTACHMENT TO REZONING APPLICATION

- I. A substantial change has occurred in the neighborhood of the subject property since the last comprehensive zoning which would justify rezoning of the subject property to R-3.

Applicant defines the neighborhood of the subject property as I-95 to the north, Bush Chapel Road and the corporate boundaries of the City of Aberdeen to the East, U.S. Route 40 to the South and Riverside Parkway (Route 543 to the West).

The entire parcel is split-zoned R-2/GI/CI. The R-2 portion of the property is developed as the Beechtree Golf Course. The bulk of the remaining parcel is zoned GI. A portion of the parcel zoned CI was separated from the GI portion of the property by realigning Route 7. The 1996 Master Land Use Plan designated this area as "Industrial/Employment." The 2004 Master Land Use Plan changed the classification of the subject property from "Industrial/Employment" to "Medium Intensity." With the development of a large portion of the property for the Beechtree Golf Course and the existing Land Use Plan designation, a substantial change has occurred since the last comprehensive zoning. The subject property is no longer a viable location for industrial commercial-type uses. Wetlands, flood plains and topography impact the ability to develop the property commercially. Instead, residential uses would be most compatible with the surrounding neighborhood and the golf course.

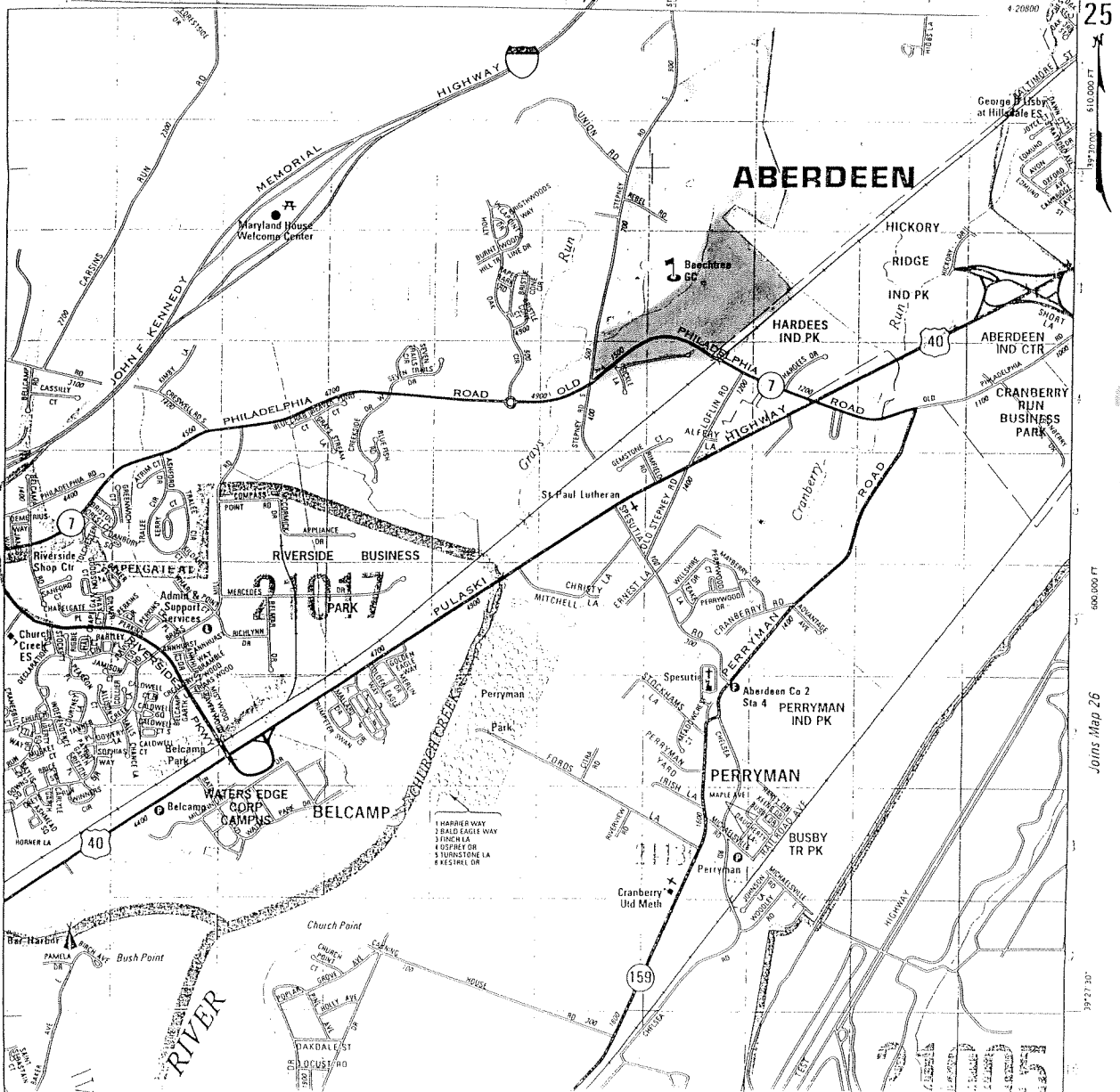
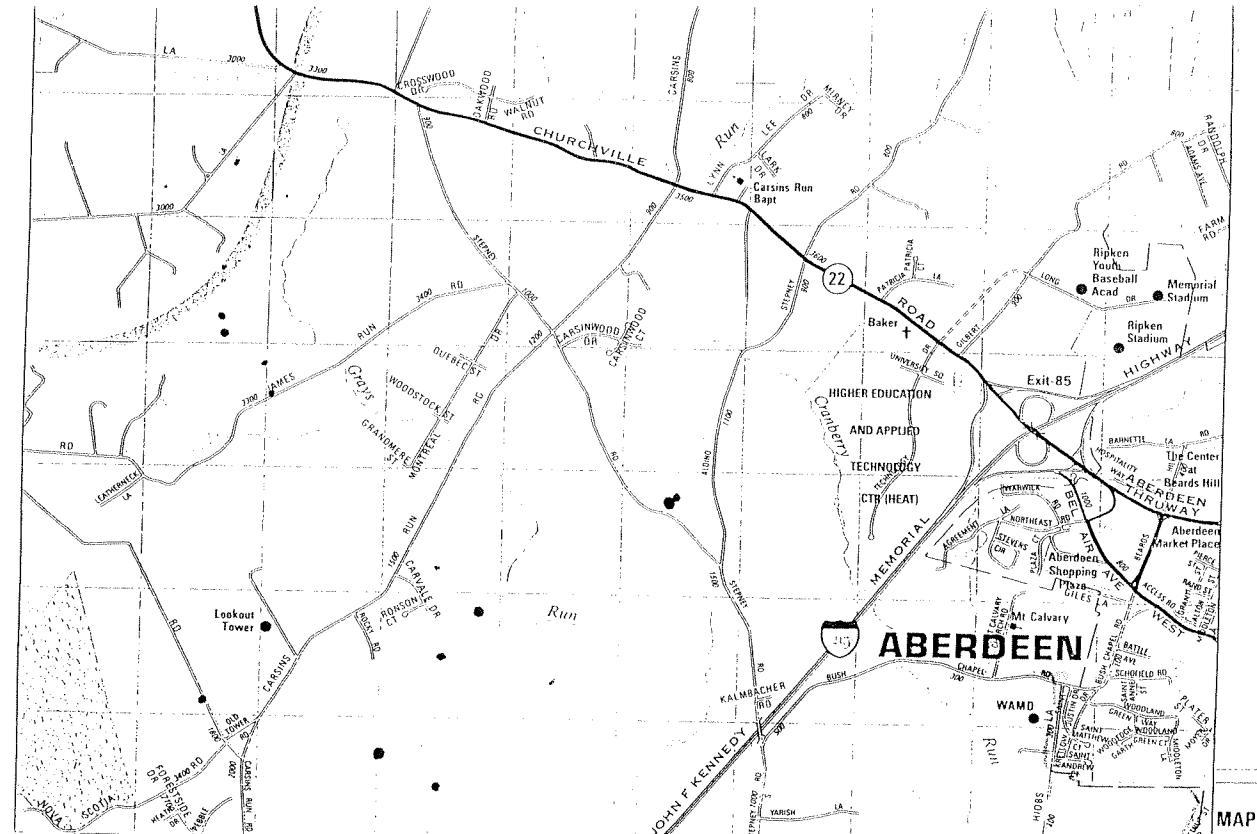
The property was the subject of a State Highway Administration condemnation proceeding in 1994-1995 in order to realign Maryland Route 7. The effect of the realignment was that the resulting commercial parcels were rendered virtually undevelopable due to their resulting size (depth of residual land).

In addition, the Base Realignment and Closure (BRAC) process will result in the relocation of thousands of jobs to the Aberdeen Proving Ground/Edgewood Arsenal. This shift will also result in a substantial increase in defense contractors located in the Harford County area. The need for quality, affordable housing within the development envelope and in close proximity to the Aberdeen Proving Ground has increased exponentially. All of these changes result in the subject property being appropriate to be rezoned to the R3 zoning classification which would be consistent with medium intensity designation under the 2004 Master Land Use Plan.

- II. The Harford County Council made a mistake in split zoning the subject property GI/CI during the 1997 comprehensive zoning process.

The property split-zoned R-2/GI/CI. The County Council was mistaken in 1997 in creating a split-zoning situation on the subject property. Furthermore, the Council was mistaken that the surrounding area would develop for commercial/industrial uses. Instead, the bulk of the subject property has developed as the Beechtree Golf Course, an upscale golf facility. The size and shape of the commercial parcels is not conducive to commercial development. The Council failed to consider this fact in zoning the property in 1997.

APPLICANT'S
PROPOSED
NEIGHBORHOOD



MAP
25

Joins Map 26

- Pink - Subject Property
- Purple - Rezoning Portion
- Green - Neighborhood

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

August 11, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 117

APPLICANT/OWNER: Stepney Road Holding Limited Partnership
c/o James F. Knott Development
1 Texas Station Court, Ste. 200, Timonium, Maryland 21093

REPRESENTATIVE: Kevin J. Mahoney, Esquire
Gessner, Snee, Mahoney and Lutche, PA,
11 South Main Street, PO Box 1776, Bel Air, Maryland 21014

LOCATION: NE corner of MD Route 7 and Stepney Road, Aberdeen, Maryland
Tax Map: 58 / Grid: 2C / Parcel: 59
Election District: Second (2)

ACREAGE: 300.64 acres

ACREAGE TO BE ZONED: 83.72 acres

EXISTING ZONING: R2 (Urban Residential), CI (Commercial Industrial), GI (General Industrial)

PROPOSED ZONING: R2/R3 (Urban Residential)

DATE FILED: June 15, 2006

HEARING DATE: August 23, 2006

APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

Preserving Harford's past; promoting Harford's future

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LAND USE and ZONING ANALYSIS:

Location and Description of Neighborhood:

The subject property is located on the northeast corner of Old Philadelphia Road (MD Route 7) and Stepney Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The Department of Planning and Zoning defines the neighborhood for the subject property as being the area south of I-95, north of MD Route 7, west of the Corporate Limits of the Town of Aberdeen and east of MD Route 543. It is this Department's opinion that the above described neighborhood would be the most affected by the development of the subject property. See enclosed map of the Neighborhood (Attachment 4).

Land Use – Master Plan:

The subject property is located within the Development Envelope as described in the 2004 Master Plan. The predominant land use designation is Medium Intensity. There are also areas of High Intensity and Industrial Employment. The Natural Features Map reflects stream systems and sensitive species project review areas. The subject property is designated Medium Intensity, which is defined by the 2004 Master Plan as:

Medium Intensity – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores, and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of a portion of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses in the neighborhood conform to the overall intent of the Master Plan. There are several new residential communities within the subject neighborhood; including Hollywoods, Seven Trails, and Woodlawn. These residential communities include single-family dwellings, townhouses, and condominiums. The land uses to the west near the I-95 and MD Route 543 interchange include a gas station/convenience store, a restaurant, and a motel. More intensive commercial and industrial uses are located south of Rt. 7. Enclosed with the report are a copy of the topography map and the aerial photograph (Attachments 7 and 8)

The subject property has frontage along Stepney Road and MD Route 7. Prior to 1996, the property was actively farmed. The subject property is split zoned R2 (Urban Residential), CI (Commercial Industrial), and GI (General Industrial).

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The owner(s) of the subject property requested a Special Exception through the Board of Appeals (Case No. 4597) in 1996 to construct and operate an 18-hole golf course/club in the R2 district. A variance was also granted to disturb the 75-foot Natural Resource District (NRD) buffer required along the limits of the non-tidal wetlands located on the site. The Special Exception for the golf course and the variance to disturb the non-tidal wetlands was granted. The approval included a clubhouse, restaurant, and driving range.

The owner(s) of the subject property returned to the Board (Case No. 4636) later in 1996 to modify the site plan approved under Case No. 4597. The Applicant revised the site plan originally approved by the Board due to refinements in the golf course layout which necessitated the modification request. The refinements in the golf course layout also caused additional disturbances to the NRD. The Board approved the modification to Case No. 4597 on July 30, 1996.

The owner(s) returned to the Board in 1998 (Case No. 4814) to request a modification to Case No. 4636 to allow the golf course and restaurant to be used for non-golf related events. The Board approved this modification on June 29, 1998. The golf course continues to be operated in accordance with all of the conditions of the above referenced Board approvals.

The remainder of the subject property located on the north side of MD Route 7 is zoned GI. The GI portion of the property is approximately 50% wooded. One fairway and green are located within the GI district.

The property was subject to a State Highway Administration (SHA) condemnation proceeding in 1994-1995. The SHA condemned a portion of the property to allow for the realignment of MD Route 7. The realignment caused the southern portion of the subject property to be split from the bulk of the property. The portion of the property to the south of the realigned MD Route 7 is zoned CI and is currently undeveloped.

Zoning History:

The following is a review of the subject parcel and the immediate surrounding area:

1957 Comprehensive Zoning Review: In 1957, the predominant zoning classification north of the railroad in the area of the subject property was A1 Agricultural. There was a strip along the north and south sides of the railroad right-of-way zoned M2 Heavy Industrial District. In 1971, under an individual rezoning, the Swards requested to have their property rezoned from A1 Agricultural to M1 Light Industrial for the northern portion and M2 Heavy Industrial for the remaining southern portion (Case 6-D-7 to M-1 and 6-E-7 to M2). An adjoining property on the east side was also zoned M2 in 1976 (Williams and Riden, Cyclic Zoning Case I-75-17). Enclosed with the report is a copy of the 1957 zoning map and a copy of the rezoning log. (Attachments 9 and 10)

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1982 Comprehensive Zoning Review: The zoning patterns in this corridor, especially in the area of the subject property, changed significantly during this review. All the Agricultural zoned areas were rezoned to either residential or industrial. The subject property (formerly owned by the Swards), was changed from M1 Light Industrial to GI General Industrial District. The strip of land along Stepney Road was rezoned from A1 to R1 to buffer the residential uses on the west side of Stepney Road. The small parcel at the corner of Stepney Road and MD Route 7 was rezoned from GI to B1 Neighborhood Business. The Industrial zoning was increased considerably in this general area. Enclosed with the file is a copy of the 1982 zoning map. (Attachment 11)

1989 Comprehensive Zoning Review: Minimal changes occurred in the area during the 1989 Comprehensive Zoning Review. The R1 area along Stepney Road was zoned GI/General Industrial. The remainder of the subject property remained GI – General Industrial District. Enclosed with the file is a copy of the 1989 zoning map and log (Attachments 12 and 13).

1996 Piecemeal Rezoning: The applicants filed a piecemeal rezoning request in 1996 citing a mistake made by the County Council in 1989 (Case #067). The request was to rezone approximately 219.0+/- acres from GI to R2. The Board granted approval of the rezoning request which is reflected on the 1997 zoning map.

1997 Comprehensive Zoning Review: There were few rezoning requests in the subject neighborhood during this review. The Applicant filed a rezoning request to change approximately 7.05+/- acres from GI to CI. The request was granted and is reflected on the 1997 zoning map. Enclosed with the file is a copy of the 1997 zoning map. (Attachment 14)

2005 Comprehensive Zoning Review: The Applicant requested that 88.0+/- acres of the subject property which is zoned CI and GI be rezoned to R3. The County Council voted to rezone the CI portion of the property to R2 and rezone 40.0+/- acres of the GI property to R2 and 45.0+/- acres to R3. Enclosed with the file is a copy of the 2005 zoning log (Attachment 15). However, the County Executive vetoed the legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect.

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Petitioner to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive zoning review.

Substantial Change Argument:

The Applicants state that “The 1996 Master Land Use Plan designated this area as “Industrial/Employment.” The 2004 Master Land Use plan changed the classification of the

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subject property from “Industrial/Employment” to “Medium Intensity”. With the development of a large portion of the property for the Beech Tree Golf Course and the existing Land Use Plan designation, a substantial change has occurred since the last comprehensive zoning. The subject property is no longer a viable location for industrial commercial-type uses. Wetlands, flood plains and topography impact the ability to develop the property commercially. Instead, residential uses would be most compatible with the surrounding neighborhood and the golf course.”

“The property was the subject of a State Highway Administration condemnation proceeding in 1994-1995 in order to realign MD Route 7. The effect of the realignment was that the resulting commercial parcels were virtually undevelopable due to their resulting size (depth of residential land)” in the CI portion of the subject property being split from the bulk of the property.

The Applicant also states that, “In addition, the Base Realignment and Closure (BRAC) process will result in the relocation of thousands of jobs to the Aberdeen Proving Ground/Edgewood Arsenal. This shift will also result in a substantial increase in defense contractors located in the Harford County area. The need for quality, affordable housing within the Development Envelope and in close proximity to the Aberdeen Proving Ground has increased exponentially. All of these changes result in the subject property being appropriate to be rezoned to the R3 zoning classification which would be consistent with medium intensity designation under the 2004 Master Land Use Plan.”

The Department of Planning and Zoning disagrees with the Applicant that a substantial change has occurred in the subject neighborhood. The land use in the area is predominately a mix of residential housing; including single-family dwellings, townhomes, and condominiums. Several parcels within the subject neighborhood have recently been developed in accordance with their existing zoning. These parcels are all located within the Development Envelope. The development of these parcels for residential uses is consistent with the 1996 and 2004 Master Plans and existing zoning. Since the existing changes to the subject neighborhood were anticipated during the last comprehensive zoning review, the Department cannot justify this rezoning request based on a change in the neighborhood.

The Department of Planning and Zoning is aware of BRAC and has been actively involved with State, Federal and Military officials in planning for the relocation process. This Department, however, disagrees with the Applicants argument that the BRAC process has caused a substantial change in the subject neighborhood.

Mistake Argument:

The Applicant’s state that, “The County Council was mistaken in 1997 in creating a split-zoning situation on the subject property. Furthermore, the Council was mistaken that the surrounding area would develop for commercial/industrial uses. Instead, the bulk of the subject property has developed as the Beechtree Golf Course, an upscale golf facility. The size and shape of the

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commercial parcels is not conducive to commercial development. The Council failed to consider this fact in zoning the property in 1997.”

The Department agrees that a mistake has occurred in the zoning of the property. The property was previously designated as Industrial Employment on the 1996 Land Use Plan. The 2004 Land Use Plan now shows this property as medium Intensity. The current industrial zonings on the subject property are inconsistent with the current Medium Intensity land use designation. The location of environmentally sensitive areas such as streams, wetlands and floodplain would make the property difficult to develop industrially. The requested R3 (Urban Residential) zoning is appropriate for this property and is consistent with the 2004 Land Use Plan.

ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Conformance with the Master Plan and Land Use Element Plan:

The subject property is designated as Medium Intensity on the 2004 Master Land Use Map. Therefore, the Applicant's request to rezone the CI and GI portions of the property to R3 is consistent with the Land Use Element Plan.

Impact on the Neighborhood:

The requested change in zoning from industrial to residential is appropriate for the subject property. The proposed rezoning should not adversely impact the neighborhood.

COMMENTS FROM ADVISORY GROUPS:

History Presevation Commission:

There are no inventoried historic sites on or adjacent to the property.

Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting of August 9, 2006. The PAB found that there was not a change in the neighborhood. The PAB voted 2-2 in reference to the staff reports finding that a mistake was made in the last comprehensive zoning review (Attachment 16).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request to rezone 83.72+/- acres of the subject property from CI (Commercial Industrial) and GI (General Industrial) to R3 (Urban Residential) be approved.

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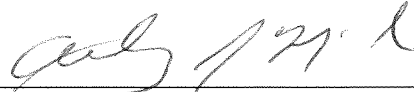
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Shane Grimm, Chief
Site Plans & Permits Review

SPG/ASM/jf



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning